

Adopted	Rejected
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COMMITTEE REPORT

YES:	14
NO:	0

MR. SPEAKER:

*Your Committee on Financial Institutions, to which was referred House Bill 1365, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 32-29-1-11, AS ADDED BY P.L.2-2002,
- 3 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2003]: Sec. 11. (a) This chapter does not limit:
- 5 (1) the right to assign, mortgage, or pledge the rents and profits
- 6 arising from real estate;
- 7 (2) the right of an assignee, a mortgagee, or a pledgee to collect
- 8 rents and profits for application in accordance with an
- 9 assignment, a mortgage, or a pledge; or
- 10 (3) the power of a court of equity to appoint a receiver to take
- 11 charge of real estate to collect rents and profits for application in
- 12 accordance with an assignment, a mortgage, or a pledge.
- 13 (b) A person may enforce an assignment, a mortgage, or a pledge of
- 14 rents and profits arising from real property:

- 1 (1) whether the person has or does not have possession of the real
- 2 estate; and
- 3 (2) regardless of the:
 - 4 (A) adequacy of the security; or
 - 5 (B) solvency of the assignor, mortgagor, or pledgor.
- 6 (c) If a person:
 - 7 (1) enforces an assignment, a mortgage, or a pledge of rents and
 - 8 profits arising from real estate; and
 - 9 (2) does not have possession of the real estate;
- 10 the obligations of a mortgagee in possession of real estate may not be
- 11 imposed on the holder of the assignment, mortgage, or pledge.
- 12 **(d) Except for those instances involving liens described in**
- 13 **IC 32-28-3-1, a mortgagee seeking equitable subrogation with**
- 14 **respect to a lien may not be denied equitable subrogation solely**
- 15 **because:**
 - 16 **(1) the mortgagee:**
 - 17 **(A) is engaged in the business of lending; and**
 - 18 **(B) had constructive notice of the intervening lien over**
 - 19 **which the mortgagee seeks to assert priority;**
 - 20 **(2) the lien for which the mortgagee seeks to be subrogated**
 - 21 **was released; or**
 - 22 **(3) the mortgagee obtained a title insurance policy.**

(Reference is to HB 1365 as introduced.)

and when so amended that said bill do pass.

Representative Bardon